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CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899

EXAMINER

NGUYEN, DUSTIN

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1 RECORD OF ORAL HEARING
2
3 UNITED STATES PATENT AND TRADEMARK OFFICE
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5
6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

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10 *Ex parte* BRIAN MARK SHUSTER
11 and
12 GARY STEPHEN SHUSTER
13

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15 Appeal 2007-3031
16 Application 09/648,474
17 Technology Center 2100
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20 Oral Hearing Held: January 17, 2008
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24 Before HOWARD B. BLANKENSHIP, ALLEN R. MACDONALD, and
25 JEAN R. HOMERE, *Administrative Patent Judges*.
26

27 ON BEHALF OF THE APPELLANTS:
28

29 Jonathan Jaech, Attorney
30 CONNOLLY, BOVE, LODGE & HUTZ, LLP
31 P.O. Box 2207
32 Wilmington, Delaware 19899
33

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35 PROCEEDINGS

36 JUDGE BLANKENSHIP: On the record.

37 MR. JAECH: -- file on February 20th of '07 which responds on a
38 point-by-point basis to the Examiner's appeal brief. There's 14 separate

1 major points addressed there. I, I can't address all of those in 20 minutes,
2 but I'd like to focus on -- give an overview of what this application is about
3 and discussing mostly the independent claims and perhaps a few of the
4 dependent claims.

5 This application claims priority back to April of 1999. It's been
6 pending for a while. It just so happens this was an application that I drafted
7 personally. So, I'm pretty familiar with it. The inventors here envisioned a
8 new kind of news group page, also called an information exchange group,
9 and they dubbed it a web room. They, they were looking to improve news
10 groups that existed at the time in which messages were posted by users.
11 Typically the users would assign their own topic to each message thread and
12 then the messages would be organized by thread on a page that had a topic ,
13 a general topic of interest set up in advance for the, for the news group.

14 And, the idea was that this isn't a very efficient way of, of organizing
15 information or submitting it, and the -- it would be advantageous to design a,
16 a news group system that provides for better organization of, of information.
17 So, the idea is that users in a similar manner to the news group they could
18 define an information resource which I think it's helpful to think of, if it's
19 just a web page, in which there's a defined topic for discussion and than
20 submit posts for that discussion the difference would be that built into that
21 resource or that web page would be ways for users, people who review the
22 page, to provide feedback on the relevance on the postings to the topic. If
23 you look at Figure 6-B of the, the, of the application, it shows that a vote
24 object there where users can rate each posting as to whether it constitutes

1 spam, whether it, it's a flame, you know, meaning whether it's polite against
2 them or whether or not it's relevant to the topic.

3 What the claims focus on now are, are the issue of relevance --
4 relevancy tot the defined topic. So, if you have a number of users reviewing
5 the messages and ranking them based on relevance to the topic at the end of
6 the day, you're going to have data you can put together and figure out which
7 of these postings are, are the most relevant to the topic defined for that page.
8 And, then you could simply rank them or display them with their rankings or
9 in some way let users know which are the most useful postings there; the
10 most relevant postings and build an information resource on a variety of
11 topics. That way the other thing that would be provided on these pages
12 which was different form news groups that existed at the time was linked to
13 other, linked to other resources. Links to other web pages and those also
14 could be -- would be ranked in order in terms of user's ratings ranking their
15 relevancy to the defined topic. So you'd have a -- what you would build
16 through this process of serving these web pages and collecting the user
17 rankings are pages similar, I guess, to the Wiki (phonetic sp.) page or, or a
18 ranking page on any topic where you'd have links and postings relevant to a
19 particular topic. Over time you would also collect data on specific sources
20 of information so if particular users tended to submit highly relevant articles
21 or postings, or find highly relevant links, that would be studied and credited
22 to those users. They would then be given additional rights; whether it's the
23 right to advertise on the page or administrative type rights or links to their
24 own pages that, you know, was to incentify the user community to submit

1 relevant information and grow sort of an encyclopedia of, of articles and
2 links relevant to topics.

3 Also, pages could be -- subtopics could be spawned off a particular
4 page so if you had a page on a more general topic, then users could propose
5 to define subtopics related to those general topics and those subtopics would
6 be linked. So you'd grow a collection of resources or web pages that were
7 interrelated. Each dealing with a defined topic and on which the presented
8 information was ranked by the user community. So, Claims 50 through 69
9 have one independent claim and the rest are dependent claims; define
10 methods that when performed caused this web room type of resource to, to
11 develop to grow in size, number and quality, and provide information
12 resources for users.

13 So, looking at Claim 50, we have two, two references that are cited at
14 rendering this claim obvious under 103; the Herz reference and the Rose
15 reference.

16 JUDGE BLANKENSHIP: Well, excuse me. Before we leave Claim
17 50 --

18 MR. JAECH: Yeah, Claim 50.

19 JUDGE BLANKENSHIP: Yes, you said this is entering data at a
20 web page; the first part of it, anyway.

21 MR. JAECH: Yeah, the first, the first step found in Claim 50 is
22 serving a topically organized information resource or for the wide area
23 network. The information resource comprising a defined topic of
24 information posted information from users at plurality of links with respect

1 to different remote information resources; each containing information
2 related to the topic.

3 JUDGE BLANKENSHIP: Alright. Is the web page displays data
4 and a web page that receives data. In the context of Claim 50, why would --
5 should we give patentability to what the data are called?

6 MR. JAECH: meaning the defined topic of information? The posted
7 information and plurality of links?

8 JUDGE BLANKENSHIP: There seems to be a name for the data.

9 MR. JAECH: That's true. Well, the, the patentability should be
10 given to the, the different data because the, the -- this is what causes the, the
11 functionality of what is claimed. It's, it's -- there has to be a specific type of
12 data and relationship between the data that's presented or, or you have --

13 JUDGE BLANKENSHIP: What is the functionality claimed in
14 Claim 50?

15 MR. JAECH: Well, there, there is --

16 JUDGE MACDONALD: Excuse me, this is Judge MacDonald. I, I
17 think what we're asking is we, we can understand where there is
18 functionality in terms of the ratings and the second, third and fourth step;
19 how those relate together, but how is that process changed by the fact that
20 there's been a label placed on the data in the first step?

21 MR. JAECH: Well, I think it all flows from these -- this defined
22 topic of information. I think that words define the topic are important to this
23 claim. It means that you have, you have something that's defined. It's not
24 just something that's subjective or changeable; like a user's interest. You

1 got to have a something that's set and, and you've got to have a topic which
2 it means the subject of discussion. So --

3 JUDGE MACDONALD: I understand what you're saying, but again
4 back to how does that change the rating process from any other rating
5 process that does the same second, third and fourth steps of ranking, say a
6 newspaper article versus rating a, a, a -- well, any other type of data that
7 you're looking at?

8 MR. JAECH: Well, it changes it because the rating is, is concerned
9 specifically the relevance of what's being looked at with the defined topic.
10 What you have in the prior art is just a measure of user interest in essence
11 and the data without, without defining whether or not it's relevant to a
12 particular topic. So, the user ratings in the second step there, the user ratings
13 have to signify relevance of perspective ones at the post and the remote
14 information resources to the defined topic. That's the crux of the invention
15 as defined in Claim 50.

16 JUDGE MACDONALD: Again, this is Judge MacDonald. Only a
17 procedural item, I wanted to let you know we're half way through the 20
18 minutes.

19 MR. JAECH: Okay, thank you. I think what we, what we haven't
20 heard is a -- I think the best summary is at Column 5, Lines 8 through 22,
21 what Herz does is it generates a user customized rank order listing a , a
22 target object most likely to be an interest to each user. And, it uses for that
23 purpose predictive feed-back from, from other users that is at similar users
24 would find an object interesting and a particular user might also find that

1 object interesting. And, the target objects are not restricted to any particular
2 class of objects.

3 The point I want to make quite clear on that is this: such user
4 customized rank order listings of target objects don't read on the claim
5 language because there's no defined topic of, of information and there's no
6 collection of user rating concerning relevance of posted items that are on
7 that page to the defined topic.

8 JUDGE BLANKENSHIP: Excuse me, the Examiner relied on Rose,
9 Figure 3. Do you have that?

10 MR. JAECH: Yes, yes I do.

11 JUDGE BLANKENSHIP: Now, what's the difference between
12 Claim 50 and Figure 3 of Rose; Figure 3 and 4 of Rose?

13 MR. JAECH: Well, Rose discloses a, a global data base of
14 information which is then ordered in the same way as Herz; basically using
15 predictive feed-back from other users. But, again, there's no defined topic
16 on the page itself and the ranking is not relevancy to a defined topic. The
17 ranking is only the likelihood. It's done its predictive algorithm whether this
18 group of items would be of interest to the user. And, and that's an important
19 distinction because you end up with a very different way of distributing
20 information. This, this user interest in a topic in a particular bit of
21 information says nothing about whether or not that information is relevant to
22 a defined topic.

23 JUDGE BLANKENSHIP: Well, at the top of the page it says your
24 message from standard. Suppose we give weight to that term. Why is that
25 not a defined topic?

1 MR. JAECH: Well, even if your message is from standard or a
2 defined topic, the way in which Rose orders the, the listing of the data there
3 is not relevant to the data to the defined topic, it's other user's interest in
4 those item listed there. It's, it's not collecting. Rose doesn't collect
5 specifically data about or user's rate of relevance of items of information on
6 a page to a defined topic on that page. It only collects general user interest
7 data.

8 JUDGE BLANKENSHIP: Well, at Figure 4, it receives data about
9 that -- or posts on that topic.

10 MR. JAECH: About a message? Like a thumbs up, thumbs down?

11 JUDGE BLANKENSHIP: Yes, the text says that it can do more than
12 just a thumbs-up, thumbs-down. It can receive other information ranking the
13 relevance of the, the message.

14 MR. JAECH: Well, that's, that's what I've not been able to find in
15 Rose specifically. And, Rose, Rose isn't being cited for that purpose. It's
16 being cited for the purpose of showing aggregation and user rankings and
17 providing access to the user rankings in

18 JUDGE BLANKENSHIP: It's in --

19 MR. JAECH: -- connection to --

20 JUDGE BLANKENSHIP: It's in Column 5, Lines 35 and following
21 describes Figure 4. It says it's not limited to the thumbs-up, thumbs-down.

22 MR. JAECH: Correct, and again it's just measuring interest in item
23 and information; now asking the user to say here's the defined topic on this
24 information resource, now here's posts that are in the same resource, now let
25 us know how relevant these posts are to the defined topic on the resource.

1 It's measuring different levels of interest; high interest, mediocre interest,
2 minimal interest. Because, again, Rose wants to have this global data base
3 where everything that comes into review by the user is subject to this
4 filtering process and you end up with objects that are most likely to be of
5 interest to a particular user. So both Rose and Herz are concerned with
6 personalizing searches for news paper pages for users and not with
7 developing cyclopedic types of resources where you have defined topics and
8 then articles and then links related to those topics.

9 We don't have much time left. There's a number of dependent
10 claims. I think the only one I only have time to mention at all here is, is
11 Claims 55 through 58 which deal with source associated rating data. Let's
12 take a look at 55. There's a method according to Claim 50 further
13 comprising compiling the user ratings for subject matter received from a
14 specific source to provide source associated rating data.

15 Now, now the ratings are not ratings of sources, it's ratings of --
16 because the user ratings are defined in Claim 50 as pertaining to the
17 relevance of postings to a defined topic on the page; therefore, the same user
18 ratings are being compiled at 55 and what you find out through that process
19 is which sources are providing for relevant information. At 56 through 58
20 defines there is uses that you can, you can make of that data. I don't have
21 any sort of similar process in Herz or Rose because neither of those
22 references are concerned with cultivating contributors to a topically
23 organized information resource.

24 JUDGE MACDONALD: This is Judge MacDonald. Question about
25 Claim 55. I want to, I want to make sure I'm understanding it correctly.

1 That what's going on here is a, a second level to the, to the user ratings in
2 that you're providing information about the value of the source.

3 MR. JAECH: You're actually not providing that directly, you're,
4 you're taking information about relevance of topics and then you're find --
5 you're looking to see which sources -- relevance of articles or postings to
6 topics --

7 JUDGE MACDONALD: Okay, so it's just, it --

8 MR. JAECH: --and then you see which sources contributed those
9 topics.

10 JUDGE MACDONALD: So, it's just a grouping then based on the
11 source. Okay, okay, I think I understand. Thank you.

12 JUDGE BLANKENSHIP: I'll have to refer you to the reply brief
13 and the appeal brief for, I guess, further details. I -- if you have any other
14 questions I'd like to hear them at this time.

15 JUDGE MACDONALD: No, no further questions.

16 JUDGE BLANKENSHIP: No, sir, no questions. Thank you, very
17 much.

18 MR. JAECH: I thank you for your attention and I look forward to
19 receiving your opinion.

20 JUDGE BLANKENSHIP: Alright, sir.

21 MR. JAECH: Okay.

22 (Whereupon, the proceedings concluded.)
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24
25